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18 NANJING KAPEIXI NETWORK

19 TECHNOLOGY CO., LTD d/b/a CUPSHE

20 **UNITED STATES DISTRICT COURT**
21 **CENTRAL DISTRICT OF CALIFORNIA**

22 NANJING KAPEIXI NETWORK

23 TECHNOLOGY CO., LTD d/b/a

24 CUPSHE,

25 Plaintiff,

26 vs.

27 SHEIN FASHION GROUP, INC.,

28 SHEIN GROUP LIMITED, SHEIN

GROUP UK LIMITED, and DOES 1-
10, inclusive.

Defendants.

Case No.: 2:18-cv-08942

PLAINTIFF'S COMPLAINT FOR:

1. **COPYRIGHT
INFRINGEMENT;**
2. **VICARIOUS AND/OR
CONTRIBUTORY
COPYRIGHT INFRINGEMENT**

[JURY TRIAL DEMANDED]

1 Plaintiff NANJING KAPEIXI NETWORK TECHNOLOGY CO., LTD
2 d/b/a CUPSHE (hereinafter “Plaintiff”), by and through its undersigned attorneys,
3 hereby prays to this honorable Court for relief based on the following:
4

5 **JURISDICTION AND VENUE**

6 1. This action arises under the Copyright Act of 1976, Title U.S.C., §
7 101 *et seq.*

8 2. This Court has federal question jurisdiction under 28 U.S.C. § 1331
9 and 1338 (a) and (b).

10 3. Upon information and belief, each defendant is subject to general
11 personal jurisdiction in California due to its extensive and systematic contacts in
12 this State, as well as to specific personal jurisdiction because this action arises
13 from its in-state activities.

14 4. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and
15 1400(a) in that this is the judicial district in which a substantial part of the acts and
16 omissions giving rise to the claims occurred.

17 **PARTIES**

18 5. Plaintiff NANJING KAPEIXI NETWORK TECHNOLOGY CO.,
19 LTD d/b/a CUPSHE (“PLAINTIFF” or “CUPSHE”) is a company organized and
20 existing under the laws of the country of China, with its principal place of business
21 in Nanjing, China.

22 6. Plaintiff is informed and believes and thereon alleges that Defendant
23 SHEIN FASHION GROUP, INC. (“SHEIN”) is a corporation organized and
24 existing under the laws of California, with its principal place of business located at
25 345 North Baldwin Park Blvd., City of Industry, CA 91746.

26 7. Plaintiff is informed and believes and thereon alleges that Defendant
27 SHEIN GROUP LIMITED (“SHEIN GROUP”) is a corporation organized and
28 existing under the laws of Hong Kong with its principal place of business located
in Hong Kong and with an office in New Brunswick, New Jersey.

1 8. Plaintiff is informed and believes and thereon alleges that Defendant
2 SHEIN GROUP UK LIMITED (“SHEIN UK”) is a corporation organized and
3 existing under the laws of the United Kingdom with its principal place of business
4 located at 35 Ivor Place Lower Ground, London, NW1 6EA.

5 9. The true names and capacities, whether individual, corporate,
6 associate, or otherwise, of defendants DOES 1 through 10, inclusive, are unknown
7 to Plaintiff, which therefore sues said defendants by such fictitious names.
8 Plaintiff will seek leave of this Court to amend this Complaint to include their
9 proper names and capacities when they have been ascertained. Plaintiff is
10 informed and believes, and on that basis alleges, that each of the fictitiously named
11 defendants participated in and are in some manner responsible for the acts
12 described in this Complaint. Defendants SHEIN, SHEIN GROUP, and SHEIN
13 UK and DOES 1 through 10 are hereinafter collectively referred to as
14 “Defendants.”





15 10. Plaintiff is informed and believes and thereon alleges that at all times
16 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
17 manager, principal, alter-ego, and/or employee of the remaining Defendants and
18 was at all times acting within the scope of such agency, affiliation, alter-ego
19 relationship and/or employment; and actively participated in or subsequently
20 ratified and adopted, or both, each and all of the acts or conduct alleged, with full
21 knowledge of all the facts and circumstances, including, but not limited to, full
22 knowledge of each and every violation of Plaintiff’s rights and the damages to
23 Plaintiff proximately caused thereby.

24 **FACTUAL BACKGROUND**

25 11. Plaintiff is a swimwear company that designs and creates unique and
26 original designs to use as prints for their swimwear.

27 12. Defendants brazenly stole and affixed Plaintiff’s copyright-protected
28 designs onto their own swimsuits.

13. The following chart depicts Plaintiff's swimwear made from original, copyright-protected prints, and Defendants' swimwear made from infringing prints:

Plaintiff's Swimsuit Made from Registered Prints (hereinafter, "Plaintiff's Swimsuits")	Swimsuit Made from Infringing Prints (hereinafter, "Infringing Swimsuits")
<p>Cupshe Listen to Me halter one-piece swimsuit in Plaintiff's unique design entitled <i>Aztec Passion</i>:</p> 	<p>SHEIN Lace-Up Geometric Pattern one-piece swimsuit:</p> 
<p>Cupshe Lucky Star embroidery one-piece swimsuit in Plaintiff's unique design entitled <i>Little Daisy</i>:</p> 	<p>SHEIN Embroidered Flower Cross Back swimsuit:</p> 

Cupshe Classic Theme Splicing bikini in Plaintiff's unique design entitled *Level Green*:



SHEIN Jungle Print bikini set:



Cupshe Sunseeker Cyprus print one-piece swimsuit in Plaintiff's unique design entitled *Ethnic Elephant*:



SHEIN Elephant Print high neck bikini set:



Cupshe Cute Succulent Plants Floral bikini set in Plaintiff's unique design entitled *Cactus Printing*:



SHEIN Flower Print Criss-Cross bikini set:



Cupshe Flashing Spray print one-piece swimsuit in Plaintiff's unique design entitled *Pamper Imagination*:



SHEIN Mix and Match Lace Up bikini set:



Cupshe Peaceful Time print bikini set
in Plaintiff's unique design entitled
Stray Birds:



SHEIN Palm Print wrap tie back bikini
set:



Cupshe The Wizard of Oz print bikini
set in Plaintiff's unique design entitled
Early Spring Fantasy:



SHEIN Calico Print Cami bikini set:



Cupshe Wander Leisurely print one-piece swimsuit in Plaintiff's unique design entitled *The Bright Colors of Spring*:



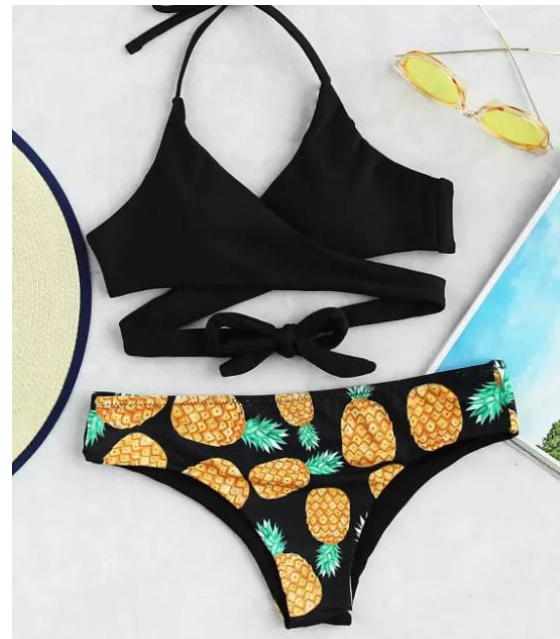
SHEIN Criss-Cross Calico print swimsuit:



Cupshe Sweet Summer Pineapple Halter Bikini Set in Plaintiff's unique design entitled *Pineapple Juice*:



SHEIN Pineapple Print Wrap bikini set:



Cupshe The Best of Youth print one-piece swimsuit in Plaintiff's unique design entitled *Pinky Color*:



SHEIN Flower Print Criss Cross Swimsuit:



Cupshe Open Lilies Print one-piece swimsuits in Plaintiff's unique design entitled *Orange Lily Pattern*:



SHEIN Flower Print Mesh Panel Swimsuit:



1 14. On or about January 11, 2018, Plaintiff applied for and received a
2 registration from the US Copyright Office for the *Aztec Passion* unique design.
3 The copyright registration number is VA 0002093827.

4 15. On or about January 25, 2018, Plaintiff applied for and received a
5 registration from the US Copyright Office for the *Little Daisy* unique design. The
6 copyright registration number is VA 0002092787.

7 16. On or about January 25, 2018, Plaintiff applied for and received a
8 registration from the US Copyright Office for the *Level Green* unique design. The
9 copyright registration number is VA 0002084563.

10 17. On or about January 11, 2018, Plaintiff applied for and received a
11 registration from the US Copyright Office for the *Ethnic Elephant* unique design.
12 The copyright registration number is VA 0002093826.

13 18. On or about November 30, 2017, Plaintiff applied for and received a
14 registration from the US Copyright Office for the *Cactus Printing* unique design.
15 The copyright registration number is VA 0002085274.

16 19. On or about December 5, 2017, Plaintiff applied for and received a
17 registration from the US Copyright Office for the *Pamper Imagination* unique
18 design. The copyright registration number is VAU 001303385.

19 20. On or about January 15, 2018, Plaintiff applied for and received a
20 registration from the US Copyright Office for the *Stray Birds* unique design. The
21 copyright registration number is VA 0002084388.

22 21. On or about November 30, 2017, Plaintiff applied for and received a
23 registration from the US Copyright Office for the *Early Spring Fantasy* unique
24 design. The copyright registration number is VA 0002085276.

25 22. On or about January 19, 2018, Plaintiff applied for and received a
26 registration from the US Copyright Office for the *The Bright Colors of Spring*
27 unique design. The copyright registration number is VA 0002093990.

28 23. On or about January 15, 2018, Plaintiff applied for and received a

1 registration from the US Copyright Office for the *Pinky Color* unique design. The
2 copyright registration number is VA 0002084389.

3 24. On or about March 28, 2018, Plaintiff applied for and received a
4 registration from the US Copyright Office for the *Pineapple Juice* unique design.
5 The copyright registration number is VA 0002096906.

6 25. On or about January 10, 2018, Plaintiff applied for and received a
7 registration from the US Copyright Office for the *Orange Lily Pattern* unique
8 design. The copyright registration number is VA 0002081925.

9 26. The *Aztec Passion*, *Little Daisy*, *Level Green*, *Ethnic Elephant*, *Cactus*
10 *Printing*, *Pamper Imagination*, *Stray Birds*, *Early Spring Fantasy*, *The Bright*
11 *Colors of Spring*, *Pinky Color*, *Pineapple Juice*, and *Orange Lily Pattern* unique
12 designs are collectively referred to here as the “Subject Artworks.”

13 27. Defendants offer the Infringing Swimsuits for sale on the following
14 websites: www.shein.com and www.romwe.com.

15 **FIRST CLAIM FOR RELIEF**
16 **FOR COPYRIGHT INFRINGEMENT**
17 **(Against All Defendants)**

18 28. Plaintiff repeats, realleges, and incorporates herein by reference as
19 though fully set forth, the allegations contained in the preceding paragraphs of this
20 Complaint.

21 29. Plaintiff is informed and believes and thereon alleges that Defendants,
22 and each of them, had access to each of the Subject Artworks prior to creating each
23 of the Infringing Swimsuits.

24 30. The design on each of the Infringing Swimsuits is substantially similar
25 to the Subject Artworks.

26 31. Pursuant to 17 U.S.C. 502, Plaintiff is entitled to a preliminary and
27 permanent injunction to prevent future infringement of the Subject Artworks.

28 32. Pursuant to 17 U.S.C. 503, Plaintiff prays that this Court impound all

1 remaining Infringing Swimsuits within Defendants' possession, custody or control.

2 33. Pursuant to 17 U.S.C. 504, prior to final judgment in this action,
3 Plaintiff will elect whether to recover: (a) its actual damages plus Defendants'
4 profits from sales of the Infringing Swimsuits; or (b) statutory damages.

5 34. Pursuant to 17 U.S.C. 505, Plaintiff prays that this Court award
6 Plaintiff its attorneys' fees and costs incurred in connection with this lawsuit.

7 **SECOND CLAIM FOR RELIEF**

8 **FOR VICARIOUS AND/OR CONTRIBUTORY COPYRIGHT**
9 **INFRINGEMENT**

10 **(Against all Defendants)**

11 35. Plaintiff incorporates all prior allegations as set forth fully herein.

12 36. Plaintiff is informed and believes, and on that basis alleges, that
13 Defendants knowingly induced, participated in, aided and abetted and profited
14 from the copyright infringement alleged above.

15 37. Plaintiff is informed and believes, and on that basis alleges, that
16 Defendants are vicariously liable for the copyright infringement alleged above
17 because they had the right and ability to control the infringing conduct and had a
18 direct financial interest in the infringement.

19 38. Pursuant to 17 U.S.C. 502, Plaintiff is entitled to a preliminary and
20 permanent injunction to prevent future infringement of the Subject Artworks.

21 39. Pursuant to 17 U.S.C. 503, Plaintiff prays that this Court impound all
22 remaining Infringing Swimsuits within Defendants' possession, custody or control.

23 40. Pursuant to 17 U.S.C. 504, prior to final judgment in this action,
24 Plaintiff will elect whether to recover: (a) its actual damages plus Defendants'
25 profits from sales of the Infringing Swimsuits; or (b) statutory damages.

26 41. Pursuant to 17 U.S.C. 505, Plaintiff prays that this Court award
27 Plaintiff its attorneys' fees and costs incurred in connection with this lawsuit.
28

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against all Defendants as follows:

1. For a preliminary and permanent injunction to prevent future infringement of the Subject Artworks;
2. For an Order impounding all remaining Infringing Swimsuits within Defendants' possession, custody or control;
3. For an award of either: (a) Plaintiff's actual damages plus Defendants' profits from sales of the Infringing Swimsuits; or (b) statutory damages; and
4. For an award of attorneys' fees and costs incurred in connection with this lawsuit.

Dated: October 16, 2018

STALWART LAW GROUP

By: /s/ Dylan Ruga
DYLAN RUGA
JI-IN LEE HOUCK
ALLEN G. HAROUTOUNIAN
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff NANJING KAPEIXI NETWORK TECHNOLOGY CO., LTD
d/b/a CUPSHE demands a trial by jury.

Dated: October 16, 2018

STALWART LAW GROUP

By: /s/ Dylan Ruga
DYLAN RUGA
JI-IN LEE HOUCK
ALLEN G. HAROUTOUNIAN
Attorneys for Plaintiff